In the High Court of Judicature at Madras

Dated: 20.03.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

W.P.Nos.5529 & 32989 of 2006

& WPMP No.5971/2006 & M.P.Nos.1 to 4/2006

W.P.No.5529 of 2006

S.Shanmugam .. Petitioner

Vs..

The Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.
rep. by its Chairman/Managing Director. .. Respondent

W.P.No.32989 of 2006

K.Sundaravelu .. Petitioner

Vs.

1.The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore,
Chennai-600 008.

2.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

3.The City Engineer,
Corporation of Chennai,
Rippon Building, Chennai-3.

4.The Tahsildar,
For Assignment Taluk Office
at Saidapet, Chennai.

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5.M/s S.S.Groups, rep. by its
Managing Director Shanmugam @
Miller Shanmugam, Old No.15,
New No.430, Ranganatha Avenue,
Kellys, Kilpauk, Chennai-600 010.

6.M/s Subisha Housing Private Ltd.,
rep. by its Managing Director,
2, Lambeth Avenue, East Abhiramapuram,
Chennai-600 018.

7.U.Kalidas

8.The Chairman,
Tamil Nadu Housing Board,
Chennai-600 040.
(R8 suo motu ordered impleaded as per
order of the Court dt.27.10.06 and made
in WP/32989/06) .. Respondents

W.P.No.5529/2006 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the respondent, his men, agent, servants, etc. from in any manner interfering with nor with the petitioner's peaceful possession and occupation and enjoyment over the unviable property situated at No.2642/96 dated 18.09.1996; 2641/96 dated 18.09.1996, 3412/96 dated 30.12.1996; 2653/96 dated 25.09.1996; 2639/96 dated 18.09.1996 and in TS.No.1 Part old Survey No.98/ Part in Block-8 classified at Gramanatham, measuring an extent of 4290 sq.ft. in Naduvankarai village vide document No.2640/96 dated 18.09.1996 except by due process of law.

W.P.No.32989/2006 filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the building permission granted by respondents 2 and 3 in Ma.Aa.5, Na.Ka.No.A4 7265/06 dated 24.08.2006 in favour of respondents 5 and 6 to the petitioner's land in Survey No.233, 79, Thirumangalam Village, Saidapet Taluk, bearing No.13-A, Anna Street, Thirumangalam, Chennai-40 measuring an extent of 20 cents and to quash the same.

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W.P.No.5529/2006
For Petitioner : Mr.M.V.Venkatachalapathy S.C., for Mr.T.S.Rajamohan
For respondent : Mr.R.Viduthalai, A.G. Assisted by Mr.R.Girirajan.

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W.P.No.32989/2006
For petitioner : Mr.V.R.Karthekeyan
For 1st respondent : Mr.J.Ravindran
For respondents 2&3 : Mr.R.Viduthalai, A.G. Assisted by Mr.L.N.Praghasham

for 4th respondent : Mr.A.Arumugam, AGP.,

For 5th respondent : Mr.K.Kuppusamy

For 8th respondent : Mr.R.Viduthalai, A.G. Assisted by Mr.R.Girirajan

COMMON ORDER

(Order of the Court was made by P.SATHASIVAM,J.)

By consent of all parties, the writ petitions themselves are taken up for disposal.

2. In W.P.No.5529 of 2006, the petitioner by name S.Shanmugam prayed to issue a Writ of Mandamus forbearing the respondent viz., Tamil Nadu Housing Board from in any manner interfering or disturbing his peaceful possession and occupation and enjoyment over the unviable property situated at No.2642/96 dated 18.09.1996; 2641/96 dated 18.09.1996, 3412/96 dated 30.12.1996; 2653/96 dated 25.09.1996; 2639/96 dated 18.09.1996 and in TS.No.1 Part old Survey No.98] Part in Block-8 classified at Gramanatham, measuring an extent of 4290 sq.ft. in Naduvankarai village vide document No.2640/96 dated 18.09.1996 except by due process of law.

3. One K.Sundaravelu, aggrieved by the building permission granted by Respondents 2 and 3-Corporation and their officers in Ma.Aa.5, Na.Ka.No.A4 7265/06 dated 24.08.2006 in favour of respondents 5 and 6 to the petitioner's land in Survey No.233, 79, Thirumangalam Village, Saidapet Taluk, bearing No.13-A, Anna Street, Thirumangalam, Chennai-40 measuring an extent of 20 cents, has filed W.P.No.32989 of 2006 to quash the same.

4. Heard the learned counsel appearing for the petitioners as well as the respondents.

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5. In view of the relief prayed for in these writ petitions, we directed the Tahsildar, Egmore-Nungambakkam Taluk, Chennai-31, to inspect the property in question and submit a report. Though the Tahsildar has not submitted a report, after inspection, he furnished certain information to the Government Pleader/Special Government Pleader with reference to the subject matter of the properties in both the writ petitions.

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6. Though both the petitioners have referred to various survey numbers, extent of land and other details, we are concerned about old survey No.233 part and 207 part/24 of Koyambedu Village.

7. The learned Advocate General appearing for the respondent-Tamil Nadu Housing Board in W.P.No.5529 of 2006, by drawing our attention to award No.4/1967 dated 25.02.1967 and to the subsequent proceedings, submitted that the land in S.No.207/24 belongs to the Tamil Nadu Housing Board and according to him, the Housing Board is not concerned about the other S.No.233. In so far as the land in S.No.207 part/24 is concerned, a perusal of the award dated 25.02.1967 shows that originally it belongs to A.R.Krishnamurthi and A.R.Rajagopalan.

8.The learned Advocate General also brought to our notice that the said land in S.No.207/24 to an extent of 6.12 acres was handed over and possession was taken by the officers of the State Housing Board Schemes, Madras-1 on 02.03.1967. The transfer of charge certificate available at page 23 of the typed set of papers filed by the Tamil Nadu Housing Board supports the above claim. He also relied on the sketch prepared by the Executive Engineer and Adminsitrative Officer, Anna Nagar Division, Tamil Nadu Housing Board, Chennai-101, for proper identification of the property in dispute.

9.On going through the above details, prima facie, we are of the view that the land in S.No.207/24 belongs to Tamil Nadu Housing Board. In respect of the land in S.No.233, there is a dispute between the petitioners in both the writ petitions. We have also verified the details mentioned in their respective affidavits and the typed set of papers. In view of the claim/counter claim by both parties, viz., the writ petitioners, we are of the view that the issue raised in both the writ petitions cannot be gone into by this Court by exercising jurisdiction under Article 226 of the Constitution of India. Both parties are at liberty to approach the appropriate Forum to vindicate their grievance by placing acceptable materials. In so far as the land in S.No.207/24 is concerned, the conclusion is based on prima facie materials furnished by the Housing Board. In the course of the argument, the learned Advocate General informed us that no action will be taken without following the due process of law. The above statement is hereby recorded. In respect of other disputes as observed earlier, both parties are at liberty to approach the appropriate Forum to vindicate their grievance.

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10. With the above observations, both the writ petitions are dismissed. No costs. Consequently connected WPMP and MPs are also dismissed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

1.The Chairman/Managing Director,
Tamil Nadu Housing Board,
Nandanam, Chennai-600 035.

2.The Member Secretary,
Chennai Metropolitan Development
Authority, Egmore,
Chennai-600 008.

3.The Commissioner,
Corporation of Chennai,
Rippon Buildings,
Chennai-600 003.

4.The City Engineer,
Corporation of Chennai,
Rippon Building, Chennai-3.

5.The Tahsildar,
For Assignment Taluk Office
at Saidapet, Chennai.

+ 1 CC To Mr. R.Girirajan, Advocate SR NO.17282
+ 1 CC To Mr. L.N.Praghasam, Advocate SR NO.17163
+ 1 CC to the Government Pleader SR NO 17121
+ 1 CC To Mr. K.Kuppusamy, Advocate SR NO.17928
+ 1 CC To Mr. V.R.Karthikeyan, Advocate SR NO. 16926
+ 1 CC To Mr. T.S.Rajamohan, Advocate SR NO.17626

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gp/26.3.

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